

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Contact Person: [REDACTED]

Telephone Number: [REDACTED]

In Reference to: [REDACTED]

Date: [REDACTED]

DO: [REDACTED]

BIN: [REDACTED]

Dear Applicant:

This is in regard to your application for recognition of exemption under section 501(c)(6) of the Internal Revenue Code.

We have reviewed the information you have submitted and have concluded that you do not qualify for recognition of exemption under section 501(c)(6) of the Code.

In your application you state that your purpose is to lobby on behalf of domestic US businesses and individuals which are affiliated with foreign corporations in opposition to proposed legislation that would impact on your members ability to participate in the political and legislative process. You describe your primary activity as contacting members of Congress, the executive branch and public forums to assure that any legislation that is enacted regulating lobbying and political fund-raising activities does not discriminate against domestic US companies that have foreign ownership. You will also identify issues in the campaign finance or lobbying-reform arenas wherein foreign companies and their US subsidiaries are targeted for disparate treatment. Your lobbying activities are to be conducted a law firm the members of which appear to constitute your entire board of directors.

You state that you are a membership organization open to both individuals and businesses and that you currently have 7 members. However, your members do not have voting rights. Your affairs are managed by your Board of Directors. Your current directors, referred to as founding directors, appear to be all representatives of the law firm which is carrying on your lobbying activities. Your founding directors shall fill any vacancies in their number by vote. You indicate that your members will remain anonymous and that you will be registered with the Clerk of the House of Representatives and Secretary of the Senate in accordance with the requirements of the Lobbying Disclosure Act of 1995.

Re: [REDACTED]

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You state that your members have a common business purpose in retaining present law which allows U.S. corporations to participate fully in the political process. You indicate that any restrictions or limitations on the ability of foreign-owned U.S. companies to support candidates who represent these companies' economic interests will place them at a disadvantage with respect to U.S.-owned competitors. Therefore, you have concluded that your activities are directed to the improvement of business conditions in one or more lines of business as distinguished from the performance of particular services for individual persons.

You state that your directors have not held a board meeting or established any committees. In addition you have not published any brochures, notices or other literature regarding your activities. You have no retainer or contract with the law firm which appears to control your activities and lobbies on your behalf.

Section 501(c)(6) of the Code provides for the exemption from federal income tax of business leagues not organized for profit, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations provides that a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. The activities of the organization must be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league.

In Hunt v Washington Apple Advertising Commission, 432 US 333 (1977), the Supreme Court of the United States looked to certain indicia of membership to determine whether a state promotional organization had standing to bring an action on behalf of the state's apple growers. The court found that the growers possessed all the indicia of membership in the organization; they alone elected the members of the Commission, they also served on the Commission and financed its activities through assessments levied on them.

Re: [REDACTED]

Rev. Rul. 61-177, 1961-2 C.B. 117 provides that a corporation organized and operated primarily for the purpose of promoting a common business interest and bettering the business conditions of one or more lines of business which otherwise meets the tests for exemption under section 501(c)(6) of the Code is exempt as a business league even though its principal activity is the advocacy of legislation which is germane to such common business interest.

Rev. Rul. 68-264, 1968-1 C.B. 264, holds that primary activities that constitute a regular business of a kind ordinarily carried on for profit will preclude exemption from Federal income tax under section 501(c)(6) of the Code. In this case, the organization was providing services to members and nonmembers alike.

Rev. Rul. 74-81, 1974-1 C.B. 135 holds that a nonprofit organization formed to promote the business welfare and interests of persons engaged in the contracting trade and related industries and whose principal activity is to provide its members with group workmen's compensation insurance is not entitled to exemption under section 501(c)(6) of the Code. By providing group workmen's compensation insurance for its members the organization is providing a particular service for the individual businesses because it relieves the members of having to obtain this insurance on an individual basis, resulting in a convenience in the conduct of their businesses.

The information you have submitted indicates that your activities appear to be directed and controlled by the law firm which engages in lobbying activities on behalf of your contributing members. Members of the firm appear to serve as the founding members on your board of directors and make all decisions. Your contributing members cannot vote to elect new officers or otherwise direct your activities. You have held no board meetings or appointed any committees through which your members could either direct your activities or inform you of their concerns. Your primary activity is to lobby the executive and legislative branches of the United States government to assure that any legislation that is enacted regulating lobbying and political fund-raising activities does not discriminate against domestic US companies that have foreign ownership. You state that you will also identify issues in the campaign finance or lobbying-reform arenas wherein foreign companies and their US subsidiaries are targeted for disparate treatment. In addition, you do not intend to make the names of your members known to either the government or the public.

[REDACTED]

The statutory construction of section 501(c)(6) of the Code establishes that Congress intended to exempt under section 501(c)(6) organizations which are membership organizations operating to further the common business interests of their members. You were established by and are controlled by your board of trustees all of whom appear to be members of the same law firm. Your governing instrument provides that your only members with any rights are the members of your board of trustees. They elect members and appoint their own successors. You have held no board meetings or appointed any committees through which your members could either direct your activities or inform you of their concerns. You have no written brochures, notices or publications of any nature through which your contributing members could set forth their position and solicit new members. Therefore, we have concluded that you are not operating in a manner similar to a traditional membership organization and cannot qualify for exemption under section 501(c)(6). See Hunt v. Washington Apple Advertising Commission, supra.

Furthermore, this entire arrangement indicates that you are not operating on behalf of a group of organizations which have banded together to engage in a common undertaking on behalf of such a group. This situation is similar to the organization described in Rev. Rul. 74-81 supra, which is merely rendering particular services for individual persons or businesses by providing them a convenience in the conduct of their businesses, in this case lobbying. You are not like the organization described in Rev. Rul. 61-177, supra, which openly lobbied on behalf of an identifiable group with a recognized line of business, you merely appear to be a lobbyist. Accordingly, we have concluded that your activities appear to be those of a private business enterprise and you do not qualify for exemption under section 501(c)(6) of the Code.

Therefore, we have concluded that you do not qualify for exemption under section 501(c)(6) of the Code and must file federal income tax returns.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

Re: [REDACTED]

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status or the filing of tax returns should be addressed to that office.

When submitting additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt by placing the following symbols on the envelope: [REDACTED]

[REDACTED] These symbols do not refer to your case but rather to its location.

Sincerely yours,

[REDACTED]